

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Chinese Voice of Golden City	)	File No. EB-FIELDWR-21-00031760
DKQLS-LP, Las Vegas, Nevada, Facility ID No.	)	FRN: 0023130925
194198	)	
	)	

**ORDER**

**Adopted: June 21, 2021****Released: June 21, 2021**

By the Chief, Enforcement Bureau:

1. On November 19, 2019, the Media Bureau notified Chinese Voice of Golden City (CVGC) that its license for station DKQLS-LP, Las Vegas, Nevada, Facility ID No. 194198 (Station) had expired pursuant to section 312(g) of the Act.<sup>1</sup> On April 23, 2021, the Enforcement Bureau (Bureau) sent a Letter of Inquiry (LOI) to CVGC regarding whether it had continued to operate the Station after its license expired.<sup>2</sup> On May 10, 2021, CVGC filed with the Commission both a Motion to Quash the LOI and a Motion for Stay<sup>3</sup> of the Bureau's investigation into whether CVGC violated the Communications Act of 1934, as amended (Act),<sup>4</sup> and the Commission's rules by continuing to operate the Station. For the reasons set forth below, we (a) dismiss the Motion to Quash as procedurally defective and otherwise deny it, and (b) deny the Motion for Stay.

2. CVGC brings its Motion to Quash under section 1.334 of the Commission's rules, which, on its face, applies only to subpoenas.<sup>5</sup> The Bureau issued the LOI pursuant to sections 4(i), 4(j) and 403 of the Act, not under its subpoena power in section 409(e) of the Act.<sup>6</sup> Because section 1.334 is specific to subpoenas, and because the LOI is not a subpoena, the Motion to Quash is procedurally defective and we therefore dismiss it.

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<sup>1</sup> 47 U.S.C. § 312(g); See Letter from Albert Shuldiner, Chief, Audio Division, FCC Media Bureau, to Chinese Voice of Golden City (Nov. 19, 2019), at [http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter\\_exh.cgi?import\\_letter\\_id=93164](http://licensing.fcc.gov/cgi-bin/prod/cdbs/forms/prod/getimportletter_exh.cgi?import_letter_id=93164) (Notification Letter). CVGC filed a petition for reconsideration of the Notification Letter and sought a stay of its effectiveness. On January 15, 2020, the Media Bureau denied CVGC's petition and dismissed the stay request as moot. *Chinese Voice of Golden City, DKQLS-LP, Las Vegas, Nevada*, Memorandum Opinion and Order, 35 FCC Rcd 567 (MB 2020) (*Recon Order*). CVGC then sought review by the Commission and again requested a stay of the license expiration. On November 25, 2020, the Commission denied CVGC's application for review and also dismissed the stay request as moot. *Chinese Voice of Golden City, DKQLS-LP, Las Vegas, Nevada*, Memorandum Opinion and Order, 35 FCC Rcd 13638 (2020) (*Review Order*).

<sup>2</sup> Motion of Chinese Voice of Golden City to Quash Letter of Inquiry (filed May 10, 2021) (on file in EB-FIELDWR-21-00031760) (Motion to Quash); Letter of Inquiry from Axel Rodriguez, Field Director, Enforcement Bureau, to Chinese Voice of Golden City (April 23, 2021) (LOI).

<sup>3</sup> Motion of Chinese Voice of Golden City for Stay of Enforcement Proceedings (filed May 10, 2021) (on file in EB-FIELDWR-21-00031760) (Motion for Stay).

<sup>4</sup> 47 U.S.C. §§ 151, *et seq.*

<sup>5</sup> Motion to Quash at 1; 47 CFR § 1.334.

<sup>6</sup> LOI at 1; Compare 47 U.S.C. §§ 154(i), 154(j), 403, with 47 U.S.C. § 409(e).

3. We also deny, on alternate and independent grounds, the substantive legal arguments set forth in the Motion to Quash. The Motion to Quash enumerates nine overlapping arguments, which effectively set forth four legal claims. *First*, the Motion to Quash argues that the Bureau lacks jurisdiction to investigate CVGC's conduct in light of its pending appeal to the United States Court of Appeals for the District of Columbia Circuit of the Commission's determination on further review of the Media Bureau's orders that the Station's license had expired pursuant to section 312(g) of the Act.<sup>7</sup> We disagree. The Notification Letter took effect on release, and CVGC's license has expired.<sup>8</sup> Further, although the LOI asks whether CVGC operated the station after the Station's license expired, it also seeks information that the Bureau needs to assess whether such operations complied with the Commission's rules pertaining to low power FM radio stations. For example, the LOI seeks information regarding the Station's power output, location, and its participation the Emergency Alert System.<sup>9</sup> Accordingly, the Bureau's investigation of CVGC through the LOI is distinct from the matter before the court, and therefore does not conflict with the court's review.

4. *Second*, the Motion to Quash argues that the LOI is threatening, coercive, and is meant to thwart CVGC's ability to seek judicial review.<sup>10</sup> We reject this argument. The LOI merely seeks information regarding CVGC's conduct;<sup>11</sup> it does not order CVGC to cease operating the Station, nor does it propose forfeitures pursuant to section 503(b) of the Act for apparent liability or make findings that the company violated the Act or the Commission's rules.<sup>12</sup>

5. *Third*, the Motion to Quash asserts that CVGC has a right to continue to operate the Station pending the resolution of its appeal.<sup>13</sup> We reject this argument as premature. The Bureau presently lacks sufficient information to make a determination as to whether CVGC operated the Station following the expiration of its license and, if so, whether it lacked the authority to do so. Were the Bureau to take any position regarding this argument, it would effectively pre-judge its own investigation.

6. *Fourth*, the Motion to Quash asserts that granting it would serve the public interest.<sup>14</sup> Not so. Congress has tasked the Commission with the management of radio spectrum and has authorized it to enforce its rules.<sup>15</sup> Were we to grant CVGC's motion, it would set a precedent that would enable all appellants in licensing matters to avoid any scrutiny of their conduct pending the outcome of their appeal.

7. Turning to the Motion for Stay, CVGC bases its motion on its likelihood to prevail both in its Motion to Quash and in its pending appeal of the *Review Order*.<sup>16</sup> Having dismissed and otherwise

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<sup>7</sup> Motion to Quash at 11 – 15.

<sup>8</sup> See 47 CFR § 1.102(b)(1) (non-hearing and interlocutory actions taken pursuant to delegated authority effective upon release).

<sup>9</sup> LOI at 5.

<sup>10</sup> Motion to Quash at 15 – 20.

<sup>11</sup> See LOI at 2 (stating that “[t]he purpose of this investigation is to determine the extent to which CVGC operates or has operated the Station without the requisite Commission authority after its license expired”).

<sup>12</sup> *Id.* (stating that the “LOI constitutes an order of the Commission to produce the documents and information requested herein”).

<sup>13</sup> Motion to Quash at 21 – 24.

<sup>14</sup> *Id.* at 24.

<sup>15</sup> 47 U.S.C. §§ 301, 501, *et seq.*

<sup>16</sup> Motion for Stay at 3, *citing Wash. Metro. Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841 (D.C. Cir. 1977) (establishing that proponents of a stay must demonstrate that (a) it is likely to succeed on the merits, (b) it will be irreparably harmed if the stay is not granted, (c) third parties will not be harmed by the stay, and (d) granting the stay serves the public interest).

denied the Motion to Quash, CVGC's arguments regarding its likelihood of prevailing in that motion are moot. CVGC's appeal of the *Review Order* does not prevent the Bureau from investigating the facts surrounding CVGC's alleged operation of the Station after the expiration of the Station's license. Even if CVGC prevails in its appeal, the Bureau has a basis to investigate CVGC's compliance with the Commission's service rules pertaining to the Station. We therefore deny the Motion for Stay.

8. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i), 4(j) and 403 of the Act,<sup>17</sup> the Motion to Quash filed by Chinese Voice of Golden City is hereby **DISMISSED** and otherwise **DENIED**.

9. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 403 of the Act,<sup>18</sup> the Motion for Stay filed by Chinese Voice of Golden City is **DENIED**.

10. **IT IS FURTHER ORDERED** that, pursuant to sections 4(i), 4(j), and 403 of the Act,<sup>19</sup> Chinese Voice of Golden City **SHALL SUBMIT** its response to the Bureau's Letter of Inquiry on or before July 6, 2021.

11. **IT IS FURTHER ORDERED** that a copy of this Order shall be sent by first class mail and certified mail, return receipt requested, to Bo Tian, President, Chinese Voice of Golden City, 2801 South Valley View Boulevard, Suite 5E, Las Vegas, Nevada 89102, and to James L. Winston, Esq., Rubin, Winston, Diercks, Harris & Cooke, LLP, 1250 Connecticut Avenue, NW, Suite 700, Washington, DC 20036.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold  
Chief  
Enforcement Bureau

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<sup>17</sup> 47 U.S.C. §§ 154(i), 154(j), 403.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*